

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**JOHN ARMENDARIZ, JR.,**

**Defendant.**

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**CASE NO. 8:04CR328**

**ORDER**

This matter is before the Court on the Defendant's motion to return seized property (Filing No. 182). The government filed a response (Filing No. 183), and the Defendant replied (Filing No. 184).

The Defendant requests the return of property under Federal Rule of Criminal Procedure 41(e) & (g). The motion, the government's response, and the Defendant's reply present the Court with factual issues including, for example, whether items of property are contraband and have monetary value. Rule 41(g) provides that "[t]he court must receive evidence on any factual issue necessary to decide the motion." Therefore, a hearing will be held with respect to the Defendant's motion.

**IT IS ORDERED:**

1. A hearing on the Defendant's motion to return seized property (Filing No. 182) has been set before the undersigned United States district judge on June 2, 2008 at 10:00 a.m. in Courtroom No. 2, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska;
2. The Marshal is directed to return the Defendant to the district for this hearing. If the Defendant at a later date decides to waive his right to be

present at the hearing, he may do so (at least 6 weeks prior to the hearing) by contacting his attorney who shall then inform the Court and the U.S. Marshal of Defendant's decision. In that event, the Defendant may participate telephonically in the hearing by informing his attorney, who in turn shall supply this court with a telephone number at which the Defendant may be reached for the hearing.

DATED this 18<sup>th</sup> day of April, 2008.

BY THE COURT:  
s/ Laurie Smith Camp  
United States District Judge